SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES

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BETTY BULLOCK, Plaintiff, vs. PHILIP MORRIS INC., a corporation; DUPAR'S RESTAURANT, a corporation; and DOES 1-100, inclusive, Defendants.

No. BC 249171
VOLUME II

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Continued deposition of PAUL SLOVIC, taken at 777 South Figueroa Street, 44th Floor, Los Angeles, California, commencing at 8:59 A.M., Wednesday, May 8th, 2002, before Kellie Mitchell, CSR No. 7273.

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PAUL SLOVIC,
the witness, having been administered an oath in accordance with CCP Section 2094, testified as follows:

EXAMINATION (CONTINUING)

BY MR. McCARTER:

Q. You realize you are still under oath?
A. Yes.
Q. I just have a few questions this morning 08:59 AM

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and hopefully it won't take too long. Would you agree that there are many factors that contribute to adolescent smoking initiation?
A. Yes.
Q. And peer pressure is one of those factors? 08:59 AM
A. Yes.
Q. And whether or not family members smoke is another factor?
A. Yes.
Q. Whether or not your friends smoke, that is 08:59 AM a factor?
A. Yes.
Q. Socioeconomic status has been associated with smoking initiation?
A. Yes. 08:59 AM



Q. And education level, that is a factor that 08:59 AM contributes to smoking initiation?
A. Yes.
Q. Risk taking behavior or risk taking propensity is that a factor that contributes to 08:59 AM adolescent smoking initiation?
A. I don't know.
Q. Have you seen any literature on that subject?
A. I don't directly recall. I believe 09:00 AM Benowitz in Chapter 8 has a full table of all of the factors. We can take a look at that.
Q. We don't need to do that. How about self-esteem is that a factor that contributes to adolescent smoking initiation? 09:00 AM
A. I believe so.
Q. What about rebelliousness?
A. Possibility, yes.
Q. Curiosity?
A. Probably, yes. 09:00 AM
Q. And adolescents are bigger risk takers than older people; is that right?
A. Depends what you mean. Risk is in different domains. Can be financial. Can be health and safety. But with regard to safety particularly 09:01 AM



adolescent males have higher accident rates and so 09:01 AM forth. So in that sense they expose themselves to higher risks, so that type, yes.
Q. So adolescents expose themselves to more safety risks as a general matter than people older 09:01 AM than them do?
A. Particularly adolescent males. I don't know about adolescent females, but certainly adolescent males have higher participation in dangerous activities. 09:01 AM
Q. Now, adolescents who start smoking also intend to engage in other risky activities as well; right?
A. There is a correlation between different activities, yes. 09:01 AM
Q. There is a correlation between starting smoking and using alcohol; right?
A. I believe so.
Q. As there is a correlation between starting smoking and smoking marijuana? 09:01 AM
A. Yes, I think so.

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Q. And there is a correlation between starting smoking and engaging in risky sexual activity?
A. I think so. 09:02 AM

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Q. Can you think of any other activities that are correlated with starting smoking? 09:02 AM
A. Not off the top of my head.
Q. Have you ever investigated what causes adolescents to engage in these other risky activities besides smoking? 09:02 AM
A. Well, there has been some studies of adolescent risk perception.
Q. Okay. And what have you found?
A. We found some of these correlations between the different behaviors. We found that people who are participating in a dangerous activity tended to think it was less risky than those who were not. So kind of like an optimism effect. We found some correlations, I believe, with personality characteristics. 09:02 AM 09:03 AM
Q. Is it fair to say that by in large the factors that are associated with smoking initiation are the same factors that are associated with participating in these other risky activities? 09:03 AM
A. I'm not sure. I haven't seen other risky activities, studies, you know, linking all of these different factors in the same way that I have for smoking. So I don't know.
Q. Is there, in your opinion, anything unique about the factors associated with smoking initiation that also don't apply to -- let me start over on that. Is there anything unique about the factors that are associated with smoking initiation that don't also apply to these other risky activities? 09:04 AM

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09:04 AM 09:04 AM
A. Yes, I think so.
Q. And what is unique to smoking?
A. Oh, I think massive advertising and promotion in the culture. The prevalence of the activity among adults. Now, if you look at movies certainly prevalent in the movies with attractive actors and actresses doing that activity. Sometimes some of the other activities you see in terms of, say, driving fast you would see something like that, but I mean in terms of -- and probably with, say, use of illegal drugs, you see that in the movies, too, but not portrayed in a favorable way. 09:04 AM 09:05 AM
So I think there is a lot that is unique about smoking.
Q. Now, there are massive advertising and promotional campaigns for liquor products; right? 09:05 AM
A. Yes, there is advertising and promotion for liquor, yes.
Q. Are those promotional and advertising campaigns any larger than cigarette advertising campaigns? 09:05 AM

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09:05 AM
A. I don't know.
Q. And certainly more people in America use alcohol than use tobacco products; correct?
A. I haven't seen the statistics on that. At this time, yes, although in the past I don't know 09:06 AM

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about that.
Q. And as you mentioned before, there were other risky activities that are portrayed in movies other than cigarette smoking? 09:06 AM
A. Yes. Cigarette smoking is not portrayed in movies as risky whereas the other activities usually are.
Q. How about sexual activity in movies? Is it usually portrayed as risky? 09:06 AM
A. I think it's probably a mix.
Q. Probably depends on the movie, too, right?
A. Right.
Q. Have you ever asked people why they started smoking? 09:06 AM
A. Yes.
Q. And do you believe asking a person why they started smoking can provide a valid and reliable measure of what, in fact, caused them to start smoking? 09:07 AM



A. I mean it gives you some information. I mean, it gives you their thoughts about why they started smoking. I wouldn't say that that is necessarily the actual reason. It may or may not be. 09:07 AM
Q. Why might it not be the actual reason?
A. Well, first, I mean that question as you phrased it is open to many interpretations. I mean, you are talking about what we call a proximal cause or a distal cause. Okay? I mean, the proximal means immediate cause someone, a friend offers you a cigarette. Distal is kind of a more broader social phenomena going on and other factors that are also important. So I mean, there is all of those different factors at work. 09:07 AM 09:08 AM
Q. Are there any other reasons why asking a person why they started smoking would not necessarily provide you with the actual reason why they started smoking?
A. Yes, they may not have insight into the factors. So, for example, very few people will say that they started because of advertising. Yet that doesn't mean that that advertising didn't influence them. It means that the influence of advertising may be too subtle and not amenable to conscious 09:08 AM 09:08 AM



awareness. 09:08 AM
Q. Would you agree that very few people would say that they started smoking with full knowledge of the risks of smoking even if they did understand the risks of smoking? 09:09 AM
A. That they would say they had full knowledge of the risks.
Q. Would you agree that very few people would say that they started smoking while understanding the risks of smoking even if, in fact, they did understand the risks of smoking? 09:09 AM
MR. PIUZE: Well, your question assumes facts not in evidence that that, in fact, exists. And also asks for this witness to speculate and so I'll object to the form of the question on both of those grounds. If you can answer, please go ahead and do so. 09:09 AM

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BY MR. McCARTER:
Q. You can answer, Mr. Slovic?
A. So that is assuming that they did have full knowledge would they say they had full knowledge? 09:09 AM
Q. Right.
A. Well, first, it -- I think it's unlikely that they had full knowledge. And I mean, I don't have any direct evidence on who they would say. I haven't studied anyone who I thought had full knowledge and asked them that question. So I don't know. I don't even know the answer to your question. 09:09 AM

Q. I'm going to look at some of the tobacco industry documents you cite in your expert report. The three documents I'm going to show you as far as I can tell are the only three Philip Morris documents cited in the your expert report in the federal case. And if that is true, if these are the only Philip Morris documents cited in your report, is it true, then, that these are the only Philip Morris documents that you reviewed in connection with offering the opinions that you are offering in this case? 09:10 AM
A. I haven't reviewed other documents than what I cited in the expert report.
Q. Let me give you this document here, and if you could just identify it for the record, please. 09:10 AM
A. Smokers Psychology Research by Wakeham.
Q. It may help you in answering my questions to Exhibit 4 which is your federal report. So I'll give you that. I believe this document I have given you is cited in Paragraph 17 of your report. And if you could just confirm that is the case, that would be great. 09:10 AM

A. I believe it is, yes. 09:11 AM
Q. What I would like for you to do for me is go through the document there on your own and just let me know what parts of the document you are relying upon and for what opinions you are relying on those parts of the document.
A. Well, I particularly pulled out this one quote which is from Page 3 Point No. 2, and that quote is reproduced in the report, in the expert report. 09:12 AM
Q. Okay. And for what opinion are you relying on Point 2 on Page 3?
A. That the -- it was deemed important to understand the psychology of smoking and the part that as it says, the role that the psychologists play in our research and development program. And as the quote says, "To learn more" -- 09:12 AM
> "It's our aim to learn more about the psychology of smoking, hopefully to discover ways to exploit the benefits of smoking to the advantage and profitability of our major company business." 09:12 AM 09:13 AM

Q. And of what importance is it to your opinions that Philip Morris deemed it important to 09:13 AM

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understand the psychology of smoking.
A. I think this kind of confirms what is evident from many of the documents that psychological factors were deemed important by tobacco companies to understand in order to -- I would say not only market their product but to manipulate people into purchasing their -- and using their product. 09:13 AM
And that, you know, they put emphasis on psychology, because as a psychologist as I try to study psychology as well, and that is what I've been doing and I was struck by the fact that they certainly knew a lot of psychology, you know, maybe way ahead of some of us modern psychologists and I think this is consistent with that notion. 09:14 AM
Q. Is it your testimony that Philip Morris was studying psychological factors related to smoking in terms of factors that they could manipulate to cause people to start smoking? 09:14 AM
A. I don't know -- maybe it would help to look at the whole set of Philip Morris documents before I answered that. The documents as a whole that I looked at were studying in particular imagery 09:14 AM



and affect and using focus groups and surveys to try to understand what needs were of different target groups in order then to tune all aspects of the marketing or many aspects of the marketing promotion to these needs. 09:14 AM 09:15 AM
Q. Now, Philip Morris -- one thing Philip Morris could be interested in looking at psychological factors for is in terms of how to promote brand switching from one type of cigarette to another type of cigarette; right? 09:15 AM
A. Yes.
Q. Is there anything in this document that tells you that Philip Morris was looking at something other than psychological factors for brand switching? 09:15 AM
A. I would have to go through the document. Do you want me just to read the documents?
Q. If you would like. I was assuming you read it before?
A. Yes, but not recently. And perhaps we can look at the question more generally. What would it be about an advertising or marketing campaign that would attract someone to a brand, you know, to switch to the brand that wouldn't also attract someone who is not yet smoking to try the brand. 09:15 AM 09:16 AM



I mean, I don't know in terms of the psychology of attractiveness and image and affect, I don't see a distinction there. 09:16 AM
Q. Let me ask you this: You pointed me to Point 2 on Page 3, is there anything in Point 2 that suggests that Philip Morris is trying to figure out ways that they can use images to get people to start smoking? 09:16 AM
A. I mean, it doesn't say that directly. It says, you know, they are working for the advantage and profitability of the business. Okay. That's general, a general statement. It's not directing this statement that they are doing that. 09:17 AM

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Q. It's not even indirect in this statement, this is a pretty vague statement; correct? 09:17 AM
A. It's a general statement about acknowledging the importance of studying the psychology. Just like I study it. I study smoking and everything else. I mean, that is a very focused type of effort to understand smokers psychology. 09:17 AM And, you know, that is what it says.
Q. There is nothing in that sentence that even indirectly suggests that Philip Morris is trying to use images in cigarette ads to get people to start smoking; correct? 09:18 AM



A. Well, this sentence doesn't say that. 09:18 AM
Q. Well, what other part of this document do you rely upon for your opinions?
A. I think the document as a whole illustrates a variety of very determined efforts to 09:19 AM employ psychological research to try to fully understand the motivation of the smoker.
I may cite it in other parts of it in the report. I would like to look and see if this Bates number comes up in other places. But I'm clear it's 09:20 AM talking about all varieties of studies including physiological studies, you know, making exploratory measures of bodily indices of emotion and arousal. Subjects are wired to a polygraph recorder. And our ultimate intent is to monitor the smoker under real 09:20 AM life conditions and so forth.
This is basic exploratory research, but we expect fallout in the way of information applicable to the design of our smoking products and also information that might be used in a public relations 09:20 AM program.
Cigarette smokers as a group seem to differ from nonsmokers in personality, physiological, and psychological characteristics.
And concludes Philip Morris as a company 09:21 AM



and the industry as a whole might very well benefit 09:21 AM greatly from much more research on the smoker than done in the past, meaning, I think, the psychology of the smoker since that is the title of this talk.
Q. Now, have you now had a chance to go 09:21 AM through the entire document?
A. Well, not the entire document, no. I have glanced over it.
Q. Did you see anything in there that indicates that Philip Morris was interested in 09:21 AM psychological research to be used in order to get people to start smoking as opposed to getting people to switch brands?
A. As I said, I don't see the difference between those types of research. Whether it's 09:22 AM explicitly stated or not, if it's to make the brand more attractive through psychological manipulation, I think will be more attractive to everyone.
Q. Well, there could be a difference in Philip Morris's intent, would you agree on that? 09:22 AM
A. It's possible.
Q. Just because Philip Morris was interested in psychological research to get people to switch brands of cigarettes, doesn't mean that they were

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interested in psychological research to get people to start smoking; correct?

MR. PIUZE: Well, that question assumes a fact not in evidence. And the fact you are putting in evidence is that psychological research was designed to switch brands. What if I told you it was designed to start smokers smoking. It wasn't designed to switch brands. Where do you get out of that document that it was designed to switch brands

BY MR. McCARTER:

Q. You can answer the question, Dr. Slovic.

A. What was the question?

MR. McCARTER: Would you read back my question, please.

(The record was read by the court reporter as follows:

"Q. Just because Philip Morris was interested in psychological research to get people to switch brands of cigarettes, doesn't mean that they were interested in psychological research to get people to start smoking; correct?")

MR. PIUZE: So the official objection is



09:22 AM
09:22 AM
09:22 AM
09:23 AM
09:22 AM
09:23 AM



it assumes facts not in evidence. Foundation. Form of the question.

Please, answer if you can.

THE WITNESS: I have to have it read again because I was struck, my attention was caught by a couple paragraphs in the document which I think are relevant, but if I mention them I might not be answering your question. So should I point out something in the document or should I try to hear your question again and answer it?

BY MR. McCARTER:

Q. Why don't you hear my question again and answer it and then I'll give you an opportunity to point out something. Would you mind reading it back again?

(The record was read by the court reporter as follows:

"Q. Just because Philip Morris was interested in psychological research to get people to switch brands of cigarettes, doesn't mean that they were interested in psychological research to get people to start smoking; correct?")

09:23 AM
09:23 AM
09:24 AM
09:22 AM



09:22 AM

THE WITNESS: Because one doesn't mean -- I think that if they were interested in getting people to switch brands they were also interested, perhaps even more interested in getting people to start smoking.

BY MR. McCARTER:

Q. Let me just follow-up on that. So if Philip Morris was only interested -- strike that.

09:24 AM

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If Philip Morris was interested in psychological research to figure out how to get smokers to switch brands, it's your testimony that they necessarily were also interested in psychological research to get people to start smoking? 09:24 AM

A. No, not necessarily. 09:25 AM

Q. Okay. So if Philip Morris was interested in research to get people to switch brands it does not necessarily follow that they also were interested in psychological research to figure out how to get people to start smoking? 09:25 AM

A. It is conceivable that they might have an interest only in getting people to switch brands. Even though many documents from the industry say that a relatively small percentage of smokers switch brands. That is conceivable. I don't think it's 09:25 AM



likely that their interest was limited to that. 09:25 AM

And I think in this document we see a broader -- you know, a much broader interest. The question:

"Why do 70 million Americans and countless millions outside of the United States smoke despite parental admonition, doctors' warnings, government taxes and health agency propaganda? 09:26 AM

"What benefits do smokers wittingly or unwittingly find in smoking that outweigh the real or imaginary risks that the same smokers feel. 09:26 AM

"Why do some people not smoke" -- and so forth.

I mean, this is a much broader focus on the understanding, the motivation of the smoker than just brand switching. It's much more fundamental than brand switching. 09:26 AM

Q. Is it your testimony that those sentences that you just read which appear on Page 2 of the document indicate that Philip Morris intended to use psychological research to get people to start smoking? 09:26 AM



09:27 AM

A. That's the way I read this document. That is my interpretation of this.

Q. Now, you mentioned that only a small percentage of smokers switch brands; is that correct? 09:27 AM

A. Yes.

Q. And yesterday you were talking about how a certain percentage of smokers answered a question in one of your surveys a certain way and you referred to that percentage as being many smokers because that percentage multiplied times all of the people who smoked is a lot of people. Do you remember that? 09:27 AM

A. That's correct. 09:27 AM

Q. So even if a small percentage of smokers switch brands, that is still a lot of people switching brands; right?

A. Well, it -- yeah, one could -- I think it would be interesting to do a cost benefit analysis 09:28 AM

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of the amount of money that is put into that marketing and promotion versus the change in terms of attracting new smokers from other brands.

Q. And that type of --

A. Certainly, the numbers are -- they multiply it out there is a lot of people, yes. 09:28 AM



Q. And you haven't done that type of cost benefit analysis, have you?

A. No, I haven't.

Q. Now, one of the sentences that you just read on Page 2 says: 09:28 AM

"What benefits do smokers wittingly or unwittingly find in smoking that outweigh the real or imaginary risks that the same smokers feel." 09:28 AM

And this is talking about smokers deciding to smoke or that continue to smoke based on some type of risk benefit analysis, is it not?

A. It's not clear.

Q. But it's your opinion that smokers decide to smoke or not to smoke based on their feelings not on any risk benefit analysis; correct? 09:29 AM

A. Primarily, yes.

Q. So if Philip Morris believed that smokers were starting to smoke based on some type of risk benefit analysis their understanding would not have been accurate about the reasons why people smoke; correct? 09:29 AM

A. It depends what you mean by risk benefit analysis. The experiential system does a risk benefit analysis, but does it in a different way than the analytic system. 09:29 AM



And this sentence is ambiguous with regard to that because, 1, the unwitting benefits can be the affective feelings. 09:29 AM

And then the second part of the sentence says that real or imaginary risks that the same smokers feel. It doesn't say what they are calculating. It talks about feelings. So I would say that this is fairly consistent or possibly consistent with an affective account. 09:30 AM

Q. Would you agree that it's ambiguous at the very least in terms of whether it's consistent with an affect account versus more of a risk benefit in terms of the -- what is the other process besides affective -- 09:30 AM

A. Analytic.

Q. Would you agree that it's ambiguous whether this is talking about an affect approach or an analytic approach? 09:30 AM

A. Yes. There is only so much you can read into a sentence.

Q. Can you flip to Page 4 of this document, please. At the bottom of Page 4 there is a paragraph that begins "Incidentally," and they talk about Kool cigarettes, do you see that? 09:31 AM



A. Yes.

Q. Would you agree that the discussion in that paragraph deals with brand switching and not smoking initiation? 09:31 AM

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A. Not exactly.
Q. Why not?
A. Well, they talk about kind of a test against one brand against another. What they are observing is the impact of the name and brand image, you know, the very name and how that can color the reaction or impression of the product. I mean, that is the fundamental aspect of the way imagery and affect work. It is associated with all advertising. 09:32 AM
Q. Now, in this paragraph the author is comparing the popularity in the image of Kool cigarettes to the image of Marlboro Menthol; right? 09:32 AM
A. Yes.
Q. Let's look at another Philip Morris document that you cite in your report. And that's an extra copy there. 09:32 AM
And, Dr. Slovic, if you can identify the document that I just handed you?
A. "The Viability of the Marlboro Man Among The 18-24 Segment." 09:33 AM



Q. Okay. I would like for you to go through this document, which I believe is referred to in Paragraph 19 of your federal report, and let me know, tell me what parts of the document you are relying upon and for what purpose you are relying on those parts. 09:33 AM
A. Okay. Do you know if it's cited anywhere else in the report?
Q. I don't believe so, but I don't know -- I'm told it's not. 09:33 AM
A. Okay. Well, I think the whole document is a testimony to the, you know, the use of focus group research to try to understand the imagery and affect of and how it would improve the attractiveness of this product and influence people to purchase it. 09:35 AM
Q. And this document here focuses on the market share of Camel brand cigarettes vis-a-vis Marlboro brand; correct?
A. Not necessarily, no. No. I think they are using the Camel advertising campaign as -- they are holding that up as an example of the successful campaign. And I think I read this as well how can we also be successful in the marketing and promoting Marlboro, you know, how can we use research to help us do that? 09:36 AM 09:37 AM



Q. Would you agree that they were talking about how can we use research to get us to switch people from Camel to Marlboro? 09:37 AM
A. Well, I'm sure they would be happy to have people switch from Camel to Marlboro, but I see this as a much more general attempt to promote Marlboro and make it a more attractive product in general. 09:37 AM
Q. How about on Page 20? Are you there?
A. Okay.
Q. In the middle of the page there is a bullet point: 09:38 AM
"Camel is more viable than it need be."
And the next bullet point down is:
"Consequently Marlboro should act to minimize the effectiveness of Camel's appeal to the values of 09:38 AM

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the 18 - 24 segment."
Does that have anything to do with trying to get people to switch from Camel to Marlboro?
A. Well, it's possible. It could also mean that they would rather have people start with Marlboro than start with Camel. 09:38 AM
Q. Are you able to say that it does not have to do with brand switching?
A. Oh, it might. I mean, it's not irrelevant to brand switching. 09:38 AM



09:38 AM
Q. Are there any other -- you mention you rely on the document as a whole for your opinions. Is there anything else you want to point out to me that you are relying upon in that document? 09:39 AM
A. Well, I mean, the basic point, as I indicated in my report, is that marketers begin to assess motivational factors by looking at actual desired images of products and consumers. And the prelude to the citation talks about focus on many studies to describe the images associated with advertising themes and brands particularly with regard to human people. And then it's cited. And I think that is what this document does. 09:39 AM
And although, it is, -- so, I mean, I think throughout the document it really shows a sophisticated and determined attempt to get at this imagery and to build it into the identity of the product. 09:39 AM
I think that if you look and while it is extensively aimed at 18 - 24 year are old segment, if you look at the type of imagery that they come up with that doesn't exactly fit the 18 - 24 year old which is kind of a young adult group in terms of, you know, looking at the sense of elonging, which is more central to the adolescent group or identify with the group, this is not talking about the Camel, but to identify with the rebelliousness of the Camel and the transition between a child to a responsible adult. 09:40 AM



09:40 AM
I mean, really, a lot of this imagery is just applicable to the adolescents or more so to adolescents which would be 18 - 24 year olds. 09:40 AM
Q. Can you give me a list of the imagery --
A. Well -- 09:41 AM
Q. Let me finish my question. What imagery, in your opinion, is more applicable to the -- is not applicable to the 18 - 24 year old age group?
A. I'm not saying that it's not. It could be applicable to 18, but it's my sense that it is as applicable or more applicable to a younger population. 09:41 AM
Q. And what is your sense --
A. Well --
Q. Let me ask the question. What is your sense based on? You said it was your sense? 09:41 AM
A. That is just my interpretation of this.
Q. And what is your interpretation based on?
A. Having been adolescent and an adult.
Q. Now, this document here that we're looking at is dated March 1992. It's on the cover page? 09:42 AM



09:42 AM

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A. Yes.
Q. None of the research in here was ahead of its time, was it?
A. I think this type of research had been going on well before this. 09:42 AM
Q. And Zajonc is somebody you have cited in your papers that has been doing this research since the late 1960s; right?
A. I mean, some of his publications date to late 1960s, yes. 09:42 AM
Q. Okay. Let's look at the third document, Philip Morris document that you cite in your report. And if you could identify that for the record as well. I think it's cited on Page 4 in your -- or Paragraph 24 of your expert report. 09:43 AM
A. It's called "The Cigarette Consumer."
Q. And I will try to shortcut this one a little bit and I think you mentioned in your expert report that you rely on this document for proposition that 85 percent of smokers agreed with the statement "I wish I had never begun smoking." Right? That is one of the things that you rely on this for? 09:43 AM
A. Yes. 09:43 AM



Q. Okay. And can you point me to anything else in this document that you rely upon? 09:43 AM
A. Well, as I mention in my report, it also says over 80 percent claimed to have attempted to quit smoking. Which this is a 1984 report which it's very consistent from what we get from many other surveys. 09:44 AM
Q. Is there anything else in here that you rely upon?
A. Well, I think it's, again, significant of the attempt to understand the smoker characteristics and to note the need to feed new people into the market, I mean, the cigarette market in a kind of equilibrium fed at one end by new smokers coming into the market each year as they reach smoking age and diminished by those quitting or aging out of the market. 09:45 AM
I think the aging out is quite a euphemism. It reflects the affective quality of language and like a glacier adding to it at one end and flowing out slowly steadily over time diminished by a more rapid melting at the other. I think that is remarkable imagery. And certainly it certainly highlights the -- what it says the fact that one has to find new people to come in at the front end. 09:46 AM



Q. Well, you were referring to Page 6; right, when you were talking about the glacier and the other couple items? 09:46 AM
A. Yes.
Q. They are not talking here about any need for new smokers to come in, they are just stating a fact that cigarette market consists of people who start smoking and people who haven't yet quit. There is no -- they are not talking about any need for people to come in, are they? 09:46 AM
A. They are talking about what they are talking about. I mean, that is what they say.

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Q. I mean, is there anything else in this document that you are relying upon?
A. Again, it's just a general document about, you know, who are the smokers and what are the characteristics, and what is happening with the market. And the fact it says in the concluding paragraph "Products targeted to younger end of spectrum most viable" because that would -- in addition they do mention brand loyalty and switching, but they also say that the younger end is more amenable to advertising and increasing consumption growth. 09:47 AM
Q. Well, let me ask you about that. 09:48 AM



A. Okay.
Q. They don't say that the young end of the spectrum is more amenable to increasing consumption growth, that is a separate point than the more amenable point; correct? 09:48 AM
A. What is your question?
Q. My question is there is nothing in this document that says that younger end of spectrum is more amenable to increasing consumption growth; correct? 09:48 AM
A. It says "Products targeted to younger end of the spectrum are most viable," and then it gives these bullet points.
Q. And the bullet point that contains the phrase "most amenable" -- says "more amenable" says more amenable to advertising; right? 09:48 AM
A. Yes.
Q. It doesn't say more amenable to increasing consumption growth?
A. No. These are separate points. 09:49 AM
Q. Okay. Now, when they say "younger end of the spectrum," what ages are included in that?
A. It doesn't say specifically. They do have some data on grade school smokers, you know, they present statistics on the market down to grade 09:50 AM



school, so they don't define what they mean. 09:50 AM
Q. And there are several charts in here which the lowest age for people smoking is 18; right?
A. There is one that I saw that started with 18 - 24, yes. 09:50 AM
Q. Well, there is more than one, isn't there? I think.
A. Where is the other one?
Q. Pages 4 and Pages 13.
A. Okay. 09:50 AM
Q. So you don't know what they mean by younger end of the spectrum; correct?
A. I don't know what age group if whether they had a specific cutoff. I think they mean younger rather than older. And they go down in some cases to 18 and in some cases they talk about grade school, so I don't know what they mean. 09:51 AM
Q. Well, let's talk about the grade school comment on Page 5.
A. Yes.
Q. That is not talking about percentage of people in grade school smoking, it's talking about the furthest education level that smokers have

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attained, isn't it?
A. Yes. 09:51 AM

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Q. Okay. So they are not talking about -- 09:51 AM
nothing in this document refers to smoking rates in anybody aged under 18; correct?
A. No.
Q. No, that is correct? 09:51 AM
A. That's correct.
Q. Do you know whose presentation this is or who wrote this document?
A. No, I don't.
Q. Do you know who the audience was of it? 09:52 AM
A. No, I don't.
Q. Do you think it's important to know those facts in order to interpret the significance of this document?
A. I would like to know, yes. 09:52 AM
Q. And this document was -- I'll give you my copy here, sir. -- it was authored in March 1984?
A. Right.
Q. And there is nothing in this document, either, that was ahead of its time; correct? 09:52 AM
A. Mr. Piuze, may I look at the document to see if there was anything ahead of its time?
I don't think so. This is characterization of the market.
Q. Let's talk briefly about the issue of 09:53 AM

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regret. Now, people regret a whole lot of 09:53 AM
activities that they've engaged in after they engaged in the activity; right?
A. Yes.
Q. The phenomenon of regretting a decision is 09:53 AM not limited to smoking?
A. No, unfortunately.
Q. Have you ever investigated the extent to which people regret engaging in other risky activities besides smoking? 09:53 AM
A. People who are actively currently engaging in activity, risky activity whether they regret ever having started that activity, you mean like skiing?
Q. We'll start with while they are participating in the activity they regret having 09:54 AM started participating in?
A. So if you go on the ski slopes and ask a skier do you wish you had never begun to ski --
Q. Yeah. Let me restate my question because I don't know if we need any examples yet. My 09:54 AM question is whether you ever investigated whether people regret activities after they started engaging in them. And by that question I want to include that people are still engaged in the activity, that's included. People that finished engaging in 09:54 AM

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it, that's also included? 09:54 AM
A. No, I haven't done in that study.
Q. Do you know of any studies like that in the literature?
A. No, I don't. 09:54 AM
Q. Mr. Piuze gave us yesterday a transcript containing the testimony of a guy named Don Ferry in the Bowgan case against Philip Morris?

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A. Yes.
Q. And I believe he provided you with a copy of that as well? 09:55 AM
A. Yes.
Q. Did you have a chance to read it between when he gave it to you yesterday and right now?
A. I glanced at it. 09:55 AM
Q. How long did you take glancing at it?
A. 15 minutes.
Q. Did you have any impressions of the testimony?
A. Well, there seemed to be -- a lot of it seemed to relate to what we discussed yesterday about optimism bias. He seemed to have a lot of surveys showing that smokers saw smoking as less risky than did nonsmokers. I can't quite remember all of the details, but it struck me as being very 09:55 AM



relevant to optimism bias. 09:56 AM
He, I think, critiqued the notion of -- he critiqued the polls that showed a high level of what we call prompted awareness of health risks of smoking, but a very low level of unprompted 09:56 AM awareness, particularly in the '50s and '60s the older polls. He referred to work by, I think, it's Saad & O'Brien, one of whom was a student of his who worked for Gallop. Bi-level Gallop people produced it, a paper critiquing the way Gallop results had 09:57 AM been portrayed with regard to the awareness of smoking.
The other -- and again, this is just first reaction. I think he began to touch on the difference between kind of a shallow awareness of a 09:57 AM link between smoking and harm and an understanding of the risk. I mean, these poll questions, particularly when they prompt the answer, generate a high level of yes, I have heard of this, you know, that smoking is unhealthy or causes cancer, but 09:58 AM having heard of something and understanding it or having any knowledge of it is really different things.
So it started to kind of get into that, but I felt that was just the tip of the iceberg in 09:58 AM



terms of the failure to understand. 09:58 AM
Q. Was there anything in Mr. Ferry's testimony that you saw that you hadn't heard or seen or read before?
MR. PIUZE: Are you talking conceptually? 09:58 AM
MR. McCARTER: Yes, conceptually, not Mr. Piuze's questions.
THE WITNESS: I can't remember. I didn't study it long enough or in enough detail.
BY MR. McCARTER:
Q. Did you see anything in Mr. Ferry's testimony that you disagreed with?
A. I guess I would disagree with the notion that just because 90 -- there was some discussion of consensus, you know, is there consensus, a tracked 09:59 AM percentage of kind of a recognition awareness over time on that. When it got to 90 percent he said well, we call that a consensus that there is awareness or something like that.

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20 And I guess I would say that I'm not 09:59 AM
21 impressed with 90 percent response as really
22 indicating consensus that people are -- understand
23 the risks. It was sort of an implication maybe that
24 is good enough, but I don't think it's a good
25 indicator. 09:59 AM



1 Q. So in your opinion you would need more 09:59 AM
2 than 90 percent of the people evidencing the type of
3 awareness that Mr. Ferry was talking about --
4 A. No --
5 Q. Let me finish the question. 09:59 AM
6 A. Sorry.
7 Q. -- in order to have a consensus on the
8 issue of smoking and lung cancer?
9 A. No, I wouldn't approach it that way. I
10 don't think the question can get at awareness in 10:00 AM
11 that way. Anyhow, I would approach it through the
12 study of experiential and analytic thinking the way
13 I've done it in my research.
14 Q. Is there anything else in Mr. Ferry's
15 testimony that you disagreed with? 10:00 AM
16 A. I can't think of anything at the moment.
17 Q. Have you ever heard of Don Ferry before
18 you got this transcript?
19 A. No, I haven't.
20 Q. I take it then you don't know him or know 10:00 AM
21 of him?
22 A. No.
23 Q. Okay. I want to talk briefly about the
24 relationship between positive and negative affect.
25 Positive and negative affect about cigarette smoking 10:00 AM



1 exists simultaneously in the world; right? 10:00 AM
2 A. Yes.
3 Q. And people are exposed to both positive
4 and negative affect about cigarette smoking?
5 A. Yes. 10:01 AM
6 Q. And in your opinion, people's decisions
7 about whether or not to smoke are based on in part
8 positive and negative affect?
9 A. Yes.
10 Q. So there is this battle that goes on, for 10:01 AM
11 lack of a better term, in individuals between
12 positive and negative affect?
13 A. Yes.
14 Q. And whether positive or negative affect
15 wins out, in your opinion, determines whether or not 10:01 AM
16 the person will end up smoking; is that fair?
17 A. Well, it's a very interesting analogy you
18 are making to a battle that to some extent we have
19 conflicts, the notion that we are conflicted
20 sometimes reflects -- I mean, it's just a form of 10:01 AM
21 battle, but, I mean, psychologically and, you know,
22 physiologically, I mean, it's a battle that takes
23 place in brain functioning and neural phenomenon and
24 this sort of thing, but in a sense there are these
25 competing factors, yes. 10:02 AM



1 Q. Now, which is stronger, positive or 10:02 AM
2 negative affect?
3 A. When? Where? And what -- I mean, there
4 is no set answer to that. I mean, it's completely

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determined. I mean, it's -- the innerplay and the balance is contextually determined. 10:02 AM

Q. Is it fair to say, then, that whether positive affect or negative affect is stronger depends on the individual and the circumstances in which the individual finds him or herself? 10:02 AM

A. It's determined by a lot of factors.

Q. And it's different -- the factors come out differently for different individuals?

A. Yes.

Q. Let's look at your federal report, which is Exhibit 4 from yesterday, and we're almost done. I want to look specifically at your assumptions in Paragraph 29 and those given on Page 14 at the bottom. 10:03 AM

A. Okay. 10:03 AM

Q. Okay. Assumption i that you have -- and I know that you've been asked about these before so I'll try to be brief. Assumption i you had was that the tobacco industry fostered a public message of doubt and controversy regarding the health effects 10:03 AM



of cigarette smoking. 10:03 AM

A. Yes.

Q. You have not made any analysis of public statements made by Philip Morris or any other tobacco company; correct? 10:03 AM

A. No, I haven't.

Q. Now, Assumption No. ii is that the tobacco industry did not disclose or knowledge to the public the addictiveness or dependence-inducing nature of nicotine use through cigarette smoking? 10:04 AM

A. Yes.

Q. And you have not made any analysis of what knowledge Philip Morris or another tobacco company had about the addictiveness or the dependence-inducing nature of nicotine; correct? 10:04 AM

A. I'm sorry. About the public -- I made an analysis of what?

Q. You have not made any analysis of what knowledge Philip Morris or the tobacco -- or any other tobacco company had about the addictiveness or dependence-inducing nature of nicotine? 10:04 AM

A. No, I have not.

Q. And you have not analyzed the effect of any failure to disclose that type of information; correct? 10:04 AM



A. No, I haven't. I'm sorry. I haven't -- please restate that. 10:04 AM

Q. You have not analyzed the effect of Philip Morris or another tobacco company's withholding of any information about addictiveness or dependence-inducing nature of nicotine? 10:05 AM

A. Well, I haven't done a technical analysis on that. I mean, but if someone doesn't provide, you know, relevant or important information, it can't have the effect that it might have if it was disclosed particularly if that information is important. So I mean, I haven't done the scientific study of that, but I think it's obvious that if information is withheld it's not going to have an influence. 10:05 AM 10:05 AM

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Q. And that is if the information is relevant and important to you to your work?
A. Yes.
Q. And you have made no efforts to analyze whether any knowledge that Philip Morris or any other tobacco company had about the addictiveness of nicotine was, in fact, relevant and important to people; correct?
A. I haven't made an analysis of the specific knowledge that they had whether that is relevant. 10:06 AM

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But clearly the addictiveness aspect is important in the work that we've done in recent years shows that people when they learn the -- when they come to understand better the nature of the addictiveness, that is very important to them. 10:06 AM
Q. You don't know what knowledge Philip Morris had on the addictiveness of cigarette smoking that they didn't disclose to the public; right?
A. I haven't studied that.
Q. So you therefore do not know whether that knowledge would be important to other people; correct? 10:06 AM
A. Not that specific knowledge.
Q. Okay. Point iii, we've talked a lot about this. It talks about the tobacco industry used its advertising and marketing programs to associate healthful, youthful, sexual, or other attractive imagery with its cigarette products. And in this assumption you were talking about the images contained in advertising; correct? 10:06 AM 10:07 AM
A. Well, yes, but not -- images also come from movies, from promotions, from, you know, sporting or from sponsoring events. It's not just advertising.
Q. My point is that you have looked at 10:07 AM

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images, but you haven't looked at any misleading statements by Philip Morris or another tobacco company; correct? 10:07 AM
A. I haven't made a study of those statements, no.
Q. And iv, you say that the tobacco industry fostered a political and social culture of acceptance or tolerance for cigarette smoking.
Let me ask you, what does that refer to?
Let me strike that. Is there anything in this point that is not already covered by Points i through iii? 10:07 AM 10:08 AM
A. I think that Points i, ii, and iii determine iv.
Q. Okay. So iv is based on the information that we just discussed that are contained in Assumptions i, ii and iii? 10:08 AM
A. I think so.
MR. McCARTER: Let's take a break here. I think I'm done. 10:08 AM
(Discussion off the record.)
MR. McCARTER: We have no more questions for you, Dr. Slovic. Thanks for your time and coming here the last couple of days.
MR. PIUZE: You can thank him in more than 10:11 AM

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that way. The stipulation is that this California court reporter is relieved of any residual obligation she may have under the Code of Civil Procedure if she'll send the original of this directly to the witness; and I will agree that if the witness is allowed to answer under penalty of perjury at the time of place of his choosing to read through it that I'll advise you of any changes or corrections he makes either 30 days after his receipt or the day prior to his testimony, whichever of those two things is last -- 10:11 AM 10:11 AM 10:12 AM

MR. McCARTER: Last?

MR. PIUZE: First.

MR. STOEVER: Can we say five days prior to his testimony? 10:12 AM

MR. PIUZE: Well, I don't know. Ms. Reporter, when will this transcript be done?

THE REPORTER: I'm going to try to have it done by Friday.

MR. PIUZE: Friday. So he gets it Monday. 10:12 AM

MR. McCARTER: Let's go off the record.

(Discussion off the record.)

MR. PIUZE: The court reporter is relieved of her obligations under the CCP if she'll send the original directly to the witness with an envelope to 10:14 AM



send it back to Arnold & Porter. They can keep custody and control of the original. I will notify the defense of any changes or additions or corrections of his testimony within 30 days of his receipt or else the defense can use its copy as if it's a signed, sealed, delivered original. This witness can read it and sign it under the penalty of perjury at the time and place of his choosing. 10:14 AM 10:14 AM

MR. McCARTER: Fine.

(TIME NOTED: 10:14 A.M.)



I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on _____, 20_____, at _____, _____.

_____

SIGNATURE OF THE WITNESS

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STATE OF CALIFORNIA ) ss:
COUNTY OF LOS ANGELES )

I, KELLIE MITCHELL, CSR No. 7273, do hereby certify:

That the foregoing deposition testimony of PAUL SLOVIC was taken before me at the time and place therein set forth, at which time the witness was placed under oath and was sworn by me to tell the truth, the whole truth, and nothing but the truth;

That the testimony of the witness and all objections made by counsel at the time of the examination were recorded stenographically by me, and were thereafter transcribed under my direction and supervision, and that the foregoing pages contain a full, true and accurate record of all proceedings and testimony to the best of my skill and ability.

I further certify that I am neither counsel for any party in said action, nor am I related to any party to said action, nor am I in any way interested in the outcome thereof.



IN WITNESS WHEREOF, I have subscribed my name this 13th day of May, 2002.

_____

KELLIE MITCHELL, CSR No. 7273

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